

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT P. SMITH III, D-00615,)	
)	
Plaintiff,)	No. C 10-4562 CRB (PR)
)	
vs.)	ORDER OF DISMISSAL
)	
STATE OF CALIFORNIA, et al.,)	
)	
Defendants.)	
_____)	

Per order filed on March 5, 2012, the court granted defendants' motion to dismiss plaintiff's pro se prisoner complaint alleging various violations of his federal and state rights while at California State Prison, Corcoran (CSP-COR) and while at Salinas Valley State Prison (SVSP), and gave plaintiff partial leave to amend to state a possible claim of inadequate medical care at SVSP. The court made clear that failure to amend within 30 days of the order would result in the dismissal of this action.

Per order filed on April 30, 2012, the court dismissed the action without prejudice because more than 40 days had elapsed and plaintiff had not amended or sought an extension of time to do so. Plaintiff moved for reconsideration.

1 Per order filed on August 17, 2012, the court granted plaintiff's motion for
2 reconsideration and vacated the April 30, 2012 order of dismissal and
3 corresponding judgment. The court afforded plaintiff a final opportunity to
4 amend to state a possible claim of inadequate medical care at SVSP, as indicated
5 in the March 5, 2012 order, by no later than September 28, 2012. Plaintiff
6 instead responded by filing a motion for reconsideration and/or request for an
7 extension of time, as he has done time and time again in his cases in this court.

8 Per order filed on September 14, 2012, the motion for reconsideration
9 and/or request for an extension of time was denied and plaintiff was warned that
10 failure to file a proper amended complaint by September 28, 2012 would result in
11 the dismissal of this action.

12 Nearly a month's time has passed since a proper amended complaint was
13 due and plaintiff still has not amended or filed any other pleading in this case.
14 The action is DISMISSED.

15 The clerk is directed to enter judgment in accordance with this order and
16 to close the file.

17 SO ORDERED.

18 DATED: Oct. 26, 2012

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21 CHARLES R. BREYER
22 United States District Judge
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